

1 Proposed revisions to 7 DE Admin. Code 3801
2 .Shellfish Aquaculture.

3
4 Docket No. 2022-R-F-0014

5
6 Moderated by Theresa Smith Newman

7 Wednesday, September 27, 2023

8 6:03 p.m.

9
10 DNREC Building

11 89 Kings Highway

12 Dover, DE 19901

13 (302) 739-9000

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18 Reported by: Heidi Schoentube

19 JOB NO.: 6090457

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A P P E A R A N C E S

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List of Attendees:

Theresa L. Smith Newman, Hearing Officer

John Clark, Division of Fish and Wildlife

Zina Hense, Environmental Scientist

Alan Davis (did not attend)

Robert Rheault, Executive Director of the East Coast
Shellfish Growers Association

Mark Casey, President of Delaware Aquaculture

Association and President of Delaware Culture Seafood

Heidi Schoentube CER, CDR, Court Reporter

Virginia Jackson, Admin Office of the Secretary

Tanesha Perry, Admin Office of the Secretary

Anya Chen, Public Attendee

Ava, Public Attendee

Chris McCarron, Public Attendee

Daniel Fosnocht, Public Attendee

Linda Braswell, Public Attendee

Linnea Saby EPW, Public Attendee

Jordan Nally, Public Attendee

Nivette Perez-Perez, Public Attendee

Town Manager Slaughter Beach, Public Attendee

Cersl, Public Attendee

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C O N T E N T S

PAGE

Theresa Smith	4, 5, 12, 21, 25, 27
Virginia Jackson	4
John Clark	10
Zina Hense	13
Robert Rheault	23
Mark Casey	25

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibits 1-12	Shellfish Aquaculture Regulations Documents	10-12

P R O C E E D I N G S

1
2 MS. SMITH: Good evening. I believe
3 everyone is now connected and ready to go, so we will
4 begin the virtual hearing. Before we get started, I'm
5 going to hand it over to DNREC's Admin, Virginia
6 Jackson, who will go over some brief instructions
7 regarding closed captioning.

8 MS. JACKSON: Good evening, everybody.
9 My name is Virginia Jackson. I'm the administrative
10 specialist with the Office of the Secretary here to
11 assist the hearing officer tonight. I'd like to make
12 sure everyone is aware that the Zoom platform we're
13 using has the ability for closed captioning in
14 multiple languages.

15 To start closed captioning, if you're
16 using a computer, at the bottom of your screen you
17 should see a Show Captions button. If you do not see
18 the Show Captions button, you may have to select the
19 three dots that say More. Once you find your Show
20 Captions button, you should click the caret pointing
21 up, which will bring up your translation options. You
22 can select your preferred language from there. If
23 your preferred language is not listed, you can select
24 More, and all of the languages will be listed.

1 If you're on a smart phone, at the
2 bottom of your screen, select the Captions button
3 indicated by cc. If your preferred language is not
4 listed at the bottom, you may have to select the three
5 dots that says More. You should then select Meeting
6 Settings with the gear icon next to it. Once the
7 Settings page comes up, located at the very bottom,
8 select Translation Language. From there you'll be
9 able to select your preferred language. Then select
10 Done at the top right corner and then Done again.

11 If the captions are not automatically
12 popping up yet, you may need to select Captions again
13 and select Show Captions. Now I'll turn it back over
14 to the hearing officer, Theresa Smith.

15 MS. SMITH: Thank you, Ms. Jackson. My
16 name is Theresa Smith, and Secretary Garvin has
17 appointed me to serve for the hearing officer for
18 tonight's formal proceeding. I want to first and
19 foremost thank you for taking the time out of your
20 busy schedules to connect with us today. The date is
21 Wednesday, September 27, 2023, and the time is now
22 6:03 p.m. We are here this evening to provide a
23 virtual platform for the State of Delaware's
24 Department of natural Resources and Environmental

1 Control to conduct its virtual hearing on Docket
2 Number 2022-R-F-0014, the proposed revisions to 7 DE
3 Admin Code 3801 .Shellfish Aquaculture..

4 First and foremost, this hearing is
5 being conducted virtually, no one.s together in the
6 same room. Everyone is participating independently at
7 their own respective locations. While we are not
8 physically gathered tonight, Zoom does generate a list
9 of those that are virtually present for this
10 proceeding so that the Department will have a record
11 of those who are electronically joined in on this
12 event.

13 At the conclusion of my introductory
14 remarks, I will be turning the hearing over to the
15 Department staff to provide their presentation for the
16 record being generated in this matter. Once the
17 presentation concludes, those persons who pre-
18 registered in advance of the hearing will be
19 acknowledged and provided an opportunity to provide a
20 verbal comment on the proposed regulatory matter in
21 alignment with DNREC.s standard comment protocols.

22 There is a court reporter virtually
23 present who will prepare a verbatim transcript of the
24 hearing pursuant to the statutory requirement for

1 DNREC to have the same prepared. And as always, that
2 transcript will be posted on the hearing webpage
3 dedicated to this matter as soon as it is received.

4 In addition, I would encourage those
5 who are attending the hearing to also visit the
6 hearing.s webpage dedicated to this matter for
7 additional details concerning the proposed
8 regulations. The hearing webpage can be found online
9 under Administrative Law section of DNREC.s webpage
10 and will be listed at the conclusion of tonight.s
11 hearing.

12 Before we begin the presentation,
13 please be advised that the following protocols remain
14 in place for all DNREC public hearings. All comment
15 received must be limited solely to the subject matter
16 of tonight.s hearing. All comments pertinent to the
17 subject matter of this virtual hearing will be
18 incorporated into the record being generated in this
19 matter. In order to ensure everyone who wishes to
20 offer comment for Secretary.s consideration is
21 accommodated, the record in this matter shall remain
22 open for a minimum of 15 days following tonight.s
23 proceeding.

24 There is only one authentic record of

1 this formal proceeding tonight, and it is the court
2 reporter.s official verbatim transcript. The
3 statutory purpose of tonight.s hearing is to build the
4 record with regard to the department.s proposed
5 action. A record consisting of the transcript of the
6 hearing tonight, all written comments, all exhibits,
7 and eventually the hearing officer.s report will be
8 reviewed by Secretary Garvin. The secretary will
9 ultimately issue an order following this review
10 process containing his decision on this matter and the
11 reasons therefor.

12 Per DNREC standard hearing protocols,
13 there will be no Q and A or chat session permitted
14 during this hearing. Those who pre-registered to
15 offer verbal comments will be acknowledged to speak at
16 the conclusion of the presentation portion of
17 tonight.s proceeding. Additional instructions with
18 regard to the offering of verbal comment for tonight
19 will be provided at that time. It is important to
20 note no decision has already been made by the
21 department nor will any decision be made tonight with
22 regard to the proposed regulatory matter. As
23 previously stated, DNREC wishes to ensure that
24 everyone is enabled to offer their comments for

1 inclusion into the record being generated in this
2 matter.

3 In light of the Administrative
4 Procedures Act, the department is required to, at a
5 minimum, provide a comment period of a minimum of 15
6 days after the hearing. As noticed in the legal ads
7 and online, the department stated that the public
8 comment period will be open through Thursday, October
9 12, 2023. Comments may be submitted through a comment
10 form link on the hearing page via email to
11 dnrehearingcomments@delaware.gov or via US Postal
12 Services at the physical address for DNREC indicated
13 on the hearing page and/or public notices previously
14 issued in this matter. Written comments to DNREC may
15 not be submitted using social media platforms such as
16 Twitter, Facebook, YouTube, or text messaging.

17 Please remember all comment received
18 either through USPS or via the electronic mechanisms
19 noted just now, as long as it is received by the
20 department on or before October 12th, will bear the
21 exact same weight and will be considered equally by
22 the secretary prior to making his final decision on
23 this matter. Lastly, the ultimate decision regarding
24 this matter is made by DNREC Secretary Garvin. This

1 formal hearing tonight acts as a mechanism to enable
2 to department to thoroughly vet the regulatory matter
3 to the public and to let the public know the various
4 ways which comment may be received for Secretary
5 Garvin.s consideration if so desired.

6 I will now hand it over to John Clark
7 and Zina Hense with the Division of Fish and Wildlife
8 to provide the department.s presentation.

9 MR. CLARK: Thank you, Hearing Officer
10 Smith. The Division of Fish and Wildlife has
11 submitted the following exhibits on the proposed
12 amendments to 7 Delaware Administrative Code 3801,
13 Shellfish Aquaculture.

14 Exhibit 1 is a compilation of the
15 outreach conducted by DNREC with Shellfish Aquaculture
16 lessees and other interested parties during the
17 development of the proposed amendments to the
18 Shellfish Aquaculture regulation.

19 Exhibit 2 are meeting minutes from the
20 Council of Shellfisheries January 7, 2020; January 14,
21 2021; January 20, 2022; July 12, 2022; and January 9,
22 2023, meetings, which summarized discussions between
23 the Council and DNREC on development of the proposed
24 amendments to the Shellfish Aquaculture regulation.

1 Exhibit 3 is a copy of the approved
2 Start Action notice number 2022-02 pertaining to the
3 proposed amendments.

4 Exhibit 4 is a copy of the Regulatory
5 Flexibility Analysis, Regulatory Impact Statement,
6 corresponding to the proposed action, and as published
7 in the September 1, 2023, Delaware Register of
8 Regulations.

9 Exhibit 5 is a copy of the Register
10 notice, Start Action notice number 2022-02, and the
11 proposed amendment to 7 Delaware Administrative Code
12 3801 Shellfish Aquaculture, as published in the
13 September 1, 2023, Delaware Register or Regulations.

14 Exhibit 6, a notice of this public
15 hearing as it appeared on Delaware statewide calendar
16 and posted September 13, 2023.

17 Exhibit 7, notice of this public
18 hearing as it appears on DNREC.s public hearings
19 website.

20 Exhibit 8, proof of publication of the
21 legal notice regarding the proposed amendments to 7
22 Delaware Code 3801 Shellfish Aquaculture in the
23 September 7, 2023, Wilmington News Journal.

24 Exhibit 9, proof of publication of the

1 legal notice regarding the proposed amendments to 7
2 Delaware Administrative Code 3801 Shellfish
3 Aquaculture as published in the September 7, 2023,
4 Delaware State News.

5 Exhibit 10, additional noticing
6 regarding tonight.s hearing on the proposed amendments
7 to the Shellfish Aquaculture regulation sent by email
8 on September 1st and September 25, 2023, to all
9 Shellfish Aquaculture lessees and other interested
10 parties.

11 Exhibit 11, notice of this public
12 hearing as it appears on the DNREC Division of Fish
13 and Wildlife Facebook page posted on September 22,
14 2023.

15 And finally Exhibit 12 is a copy of the
16 hearing presentation on proposed amendments to 7
17 Delaware Administrative Code 3801 Shellfish
18 Aquaculture that will be presented now.

19 I will now turn it over to our
20 Shellfish Aquaculture project leader, Zina Hense, to
21 give the presentation on the amendments to the
22 Shellfish Aquaculture regulations. Okay, Zina.

23 MS. SMITH: Zina, before you
24 begin -- sorry about that, John. Zina, before you

1 begin, I'd like to mark those exhibits that you just
2 introduced into the record. So I have received the
3 exhibits that John just read over, and I hereby mark
4 those exhibits as Department's Exhibits 1 through 12.
5 Thank you.

6 Zina, you may begin with your
7 presentation.

8 MS. HENSE: Thank you. I'd like to
9 start with a really quick timeline of Shellfish
10 Aquaculture in the Inland Bays. In 2013, code was
11 signed and adopted that allowed shellfish aquaculture
12 in Indian River, Rehoboth, and Little Assawoman Bays.
13 The code gave DNREC the authority to promulgate
14 regulations to allow shellfish aquaculture to develop
15 and thrive while co-existing with the many other uses
16 of the water. The regulations were approved in 2014,
17 and we started discussing the permit process that
18 would be needed with DNREC Wetlands and with the Army
19 Corps of Engineers. And leasing began in 2017, and we
20 started getting feedback from the lessees on the
21 regulation. In 2019, we began public outreach on
22 possible regulation changes and initiated the
23 regulatory action in 2022.

24 The proposed amendments to the

1 Administrative Code for Shellfish Aquaculture affect
2 the following sections:

3 In Definitions, definitions have been
4 added for lease or shellfish aquaculture subaqueous
5 land lease, semi-permanent gear, shellfish gardening,
6 and wild stock. Also in the Definitions section for
7 Little Assawoman SADA, the coordinates were changed to
8 reflect the 2017 change to Delaware Code.

9 In Shellfish Aquaculture subaqueous
10 land lease issuance, the prerequisites for a SADA
11 lease have been adjusted to reflect the practice that
12 a lease is signed but remains invalid until an Army
13 Corps permit is issued. And 3.4 has been removed so
14 that shellfish leases will conform with other permits
15 and contracts signed by the department.

16 In non-SADA Subaqueous Land Lease
17 Application, there are a few minor wording changes in
18 this section. There are mentions of DNREC's Shellfish
19 and Recreational Water Programs that has been using
20 the name Shellfish and Recreational Water Program
21 singular more recently.

22 Similarly, DNREC's Wetlands and
23 Subaqueous Land section had a name change to DNREC
24 Wetlands and Waterways section. And matching the

1 suggested change to the SADA Lease Application
2 section, language has been changed to state that a
3 lease will not be valid until an Army Corps permit has
4 been issued.

5 In Shellfish Nursery Permits and
6 Nursery Structures, changes to this section include
7 that an upweller, downweller, or raceway within a
8 valid lease will not need a separate nursery permit.
9 And there is a minor word change required for
10 clarification, and the Program section name changes as
11 noted previously.

12 In Shellfish Aquaculture Gear, there
13 are minor wording changes of leaseholder to lessee.
14 There is additional wording that captures that lessees
15 may use an abbreviated lease identifier approved by
16 the Division of Fish and Wildlife to label equipment.
17 There is an addition that bottom gear that must be
18 designed to hold oysters at least four inches from the
19 bottom rather than the current must hold oysters four
20 inches from the bottom. A change in the requirement
21 for gear marking buoys from three inches by three
22 inches by three inches to three inches in diameter and
23 visible at the water surface.

24 An addition that support structures

1 identified on an operations plan as semipermanent can
2 remain on the lease for up to six months without life
3 shellfish attached. An alteration of the language
4 about cleaning gear with electric or hydraulic power
5 to state that electric and hydraulic power should not
6 be used to clean any submerged portion of gear rather
7 than gear cannot be cleaned with power while fully or
8 partially submerged.

9 Under Importation of Shellfish for
10 Shellfish Aquaculture, an addition to say that
11 shellfish procured from other than a lease or
12 permitted Inland Bay shellfish nursery will need a
13 permit prior to import and planting.

14 Shellfish Aquaculture Species, in
15 addition to the current reg to say it is unlawful to
16 produce or culture bivalve shellfish species other
17 than easter oyster in Rehoboth, Indian River, and
18 Indian River Bay without first obtaining written
19 permission from the director of the Division of Fish
20 and Wildlife, and a change of 13.2 to say it is
21 unlawful to produce or culture any shellfish other
22 than the hard clam in Little Assawoman Bay as this was
23 specified already in Code.

24 In the Lease Marking section, a change

1 proposed to say that before any shellfish or gear are
2 placed on a lease, the acre must be surveyed and
3 marked. There are some number formatting changes,
4 although the numbers themselves remain the same.
5 There are changes in the corner marking requirements
6 to state that acres in Rehoboth and Indian River Bays
7 must be marked with six-inch PVC poles or pole buoys
8 and placards. Leases in Little Assawoman Bay shall be
9 marked in accordance with Delaware Code. Placards and
10 corner buoys may use a Division of Fish and Wildlife
11 approved abbreviated lease identifier. An addition to
12 say that corner markers must be maintained while gear
13 or shellfish are in a leased acre, but the leaseholder
14 may choose to not have shellfish and gear on the acre
15 and then not maintain the markings. If the
16 leaseholder re-establishes growing shellfish on that
17 acre, the lessee must accurately replace the corner
18 markings and sign an affidavit.

19 Under Harvesting a Shellfish
20 Aquaculture Subaqueous Land Lease, it is unlawful to
21 harvest via mechanical means excepting winches, but an
22 addition has been made to state that automated systems
23 designed to raise, lower, turn, or rotate cages or
24 containers of shellfish may be used, and the name

1 change of the Shellfish and Recreational Water
2 Programs to Program singular.

3 Under Active Use of Shellfish
4 Aquaculture Subaqueous Land Lease Sites, additions
5 have been made to confirm that scientific leases, as
6 in Delaware Code, Chapter 20, Section 5B, do not need
7 to meet active use requirements. Wording changes to
8 clarify that the planting minimum is measured in the
9 calendar year that the lease is 36 months. Wording
10 changes to clarify that the harvest minimum is
11 measured in the calendar year that the lease achieves
12 48 months. A change in the planting minimum from
13 bushels to individual oysters. An addition to confirm
14 that shellfish moved between leases are transferred
15 and planting will be assigned to the first lessee,
16 planting and harvest will be credited to the final
17 lessee, harvesting, and selling outside of the Inland
18 Bays.

19 There is a suggested removal entirely
20 of what is currently 16.4 as the information is
21 already covered. And removal of qualifiers to the
22 previous 16.5, proposed now 16.4, to state the
23 department may, at its discretion, grant written
24 exemption from the planting, harvest, or sale

1 requirements.

2 Reporting Requirements for Shellfish
3 Aquaculture Subaqueous Land Leases and Shellfish
4 Aquaculture Nursery Structures, 17.1 is changed to
5 state that monthly reports are due on shellfish rather
6 than specifically clam or oyster planting or harvest.
7 And instead of saying the yearly survey sent by the
8 department is due 45 days from receipt, the survey
9 will be due prior to February 1st of the following
10 year.

11 In Shellfish Aquaculture Land Lease
12 Transfers, there is a change and addition in the
13 transfer to state that a boundary survey on a
14 transferred lease will not be required if the
15 transferring party retains some portion of lease
16 ownership.

17 In Shellfish Aquaculture Subaqueous
18 Land Lease Expiration, Surrender, Termination, and
19 Sale, there are minor wording changes and number
20 changes suggested, like exchanging tenure for term and
21 site for lease area, changing how numbers are noted.
22 In 20.3.1, a change to say that a leaseholder may
23 contest the department's decision to terminate a lease
24 by appealing the decision. And an addition to say

1 that except as provided in section 19 in transfer of a
2 lease, it is unlawful to sublease, rent, or sell a
3 shellfish aquaculture land lease.

4 And in the final section, a change in
5 23.5 to state it is unlawful to harvest wild hard
6 clams rather than bivalve shellfish from lease sites
7 and navigation corridors. An addition of two new
8 prohibited activities, it is unlawful to fix, set, or
9 erect shellfish aquaculture gear outside the
10 boundaries of a lawful shellfish aquaculture
11 subaqueous land lease. And it is unlawful to conduct
12 shellfish gardening activities without the written
13 authorization from Delaware Shellfish and Recreational
14 Water Program.

15 There are minor changes made to five
16 other sections of the regulation. The changes
17 included the update of DNREC Shellfish and
18 Recreational Water Programs to Program as this is the
19 name they're using more recently. And minor
20 reformatting changes suggested by the registrar of
21 regulations, including renumbering of small portions,
22 reformatting the way that numbers within the
23 regulation appear, and minor rewording.

24 And that is a summary of all of the

1 suggested amendments to the Shellfish Aquaculture
2 regulation.

3 MS. SMITH: Thank you, Ms. Hense. Now
4 that the department has concluded their presentation,
5 we will turn our attention to those who have pre-
6 registered for the opportunity to offer verbal comment
7 at tonight's hearing. Per the protocol set forth on
8 DNREC's public hearing webpage, those wishing to offer
9 verbal comment during the virtual hearing must have
10 pre-registered with DNREC no later than noon the day
11 of the hearing.

12 The order of those commenting tonight
13 was established as a result of the department's pre-
14 registration process. All commentors must adhere to
15 the department's protocols with regard to offering
16 verbal comment, including making their comments as
17 concise as possible, respecting the three-minute time
18 limit, and limiting their comments to the subject
19 matter of this hearing.

20 There are three pre-registered
21 commentors. First to be called upon will be Alan
22 Davis. Second will be Robert Rheault. And third will
23 be Mark Casey. To assist the commentors with regard
24 to the amount of time they have, there is a visual

1 timer that will appear on the screen to count down the
2 three minutes. When it is that speaker's turn to
3 comment, the speaker's audio will be unmuted, their
4 identity will be confirmed, and the timer will begin.
5 At the end of the three minutes, the speaker's audio
6 will be automatically be placed back on mute. Please
7 note that there is no video feed of the commentor. It
8 is audio only. The comments will be transcribed by
9 the court reporter and thereby incorporated into the
10 hearing record.

11 If the speaker is not able to finish
12 their comment within three-minute time period, the
13 department encourages them to submit their completed
14 comment in writing no later than October 12th. The
15 commentor will be granted no more than three minutes
16 of time to speak for any reason, and there will be no
17 yielding of one comment to another commentor during
18 that three minutes. When you are called upon, please
19 state for the record your first and last name, and if
20 you are representing an agency also provide the name
21 of the organization, and then you may begin your
22 comment.

23 So to begin, I will call upon the first
24 person, and if I could please have Mr. Alan Davis

1 unmuted, and you may begin with your comment. But
2 please introduce yourself first. Thank you.

3 Do we have Mr. Davis joined in tonight?

4 UNIDENTIFIED SPEAKER: Hearing Officer
5 Smith, I do not see Mr. Davis.

6 MS. SMITH: Okay. We will move on to
7 the next speaker, Mr. Robert Rheault.

8 MR. RHEAULT: My name is Bob Rheault.
9 I'm the executive director of the East Coast Shellfish
10 Growers Association. Can you hear me?

11 MS. SMITH: Yes.

12 MR. RHEAULT: I offered comments before
13 you guys actually proposed your rules many years ago.
14 First thing, most of those comments were ignored.
15 Pertaining to the changes that you are proposing now,
16 I would offer strong objection to the sublease
17 prohibition. I don't think that there is an economic
18 justification or a practical justification for such a
19 prohibition. Other states do this, and it works quite
20 well. In regards to your regulations regarding the
21 minimum planting and harvest requirements, I think
22 there are rational ways to do this. I strongly
23 support a use-it-or-use-it clause because other states
24 that don't have this, like, or are not enforcing it,

1 like Virginia and Connecticut, have thousands of acres
2 that are not being productively leased, and that is
3 not the objective of your lease program. So I support
4 a lease minimum harvest or at least other means of
5 showing that the lease is actively being used. In
6 other states, we use means such as purchase of seed
7 receipts, purchase of gear receipts, or, quite
8 honestly, the enforcement officers are able to see
9 when they go and do inspections of the leases whether
10 the lease is actively being used. A strongly support
11 lease requirements for some use of every lease because
12 people will lease areas defensively to prevent others
13 if you don't have that. I know that Mark Casey's
14 going to skewer me for saying that.

15 As far as the corner markers, this six-
16 inch PVC poles should be adequate. We have debated
17 this in many states up and down the coast. Honestly,
18 putting a strip of highly reflective buoy tape around
19 that post is probably adequate. You're not having big
20 ships that are coming in from -- need to be able to
21 see this from a long distance. A 12-inch by 12-inch
22 triangle is probably overkill. You've got boats
23 proceeding at very low velocity. They will see these
24 pipes from quite a distance. That should be

1 satisfactory. Lease marking I've got quite a bit more
2 comments I could make about that if I had more time.

3 Your forbidding mechanical harvest. I
4 have a whole section on my website at ecsga.org that
5 addresses the pros and cons of mechanical harvest and
6 the ecological risks and benefits, and I think it
7 would be quite illustrative for you to look there, but
8 I obviously don't have time to talk about it. Thank
9 you.

10 MS. SMITH: Thank you, Mr. Rheault. As
11 you mentioned, if you didn't have enough time to go
12 through all the comments that you would like to, you
13 do have the opportunity, just as everyone else who is
14 on this hearing and any others, you are able to submit
15 your comment in writing. So I just want to remind you
16 of that. I will go back over that as well when we
17 conclude.

18 We will now move on to our next
19 speaker, Mr. Mark Casey. Can I please have him
20 unmuted, and you may begin with your comment.

21 MR. CASEY: Can you hear me?

22 MS. SMITH: Yes.

23 MR. CASEY: Great. Good evening. My
24 name's Mark Casey. I am the president of Delaware

1 Aquaculture Association. I am also the president of
2 Delaware Culture Seafood. I've been working with used
3 bivalves to remove algae from our base to allow light
4 to get to the grasses and restore our bottom habitats
5 since 1998. The Association has asked for relief on
6 requirements from the beginning. In December 2019, we
7 made a formal request to modify 27 sections of this
8 regulation. Many were addressed in some fashion.
9 During this process, several new requirements were
10 added. August of 2013, the legislators passed H bill,
11 HB 160 and gave DNREC responsibility to give farms
12 identified and create regulation to utilize this
13 subaqueous land to remove nutrients and create an
14 oyster industry.

15 DNREC translates industry as many large
16 farmers. To ensure that we get -- have large farmers,
17 they have created the planting minimum. I think that
18 has not worked. We have continuously asked to
19 decrease or eliminate planting requirements and find
20 an organic path to oyster industry through small or
21 part-time farmers. Often I receive a laugh on this
22 comment. As demonstrated, a very small fraction of
23 our population can quit their jobs, invest \$50,000,
24 and work without pay for one or more years. My simple

1 request to DNREC to recognize that this ten-year
2 regulatory effort is not working as written.

3 Listen to the active farmers who have
4 all experienced large losses that they did not
5 understand before we entered this process. Go back to
6 the drawing board. Redo these regulations to lower
7 the cost of business and welcome all farmers no matter
8 how small or long it takes to ramp up production. If
9 there's any way that I can help get oysters back in
10 our Inland Bays, please contact me. Thank you, Mark
11 Casey.

12 MR. SMITH: Thank you, Mr. Casey. I'd
13 like to circle back around one more time and call upon
14 Mr. Alan Davis. If there is a Mr. Alan Davis, if you
15 could, please raise your hand so we can identify you.

16 As there is no one who has raised their
17 hand in the past few moments, we will go ahead and
18 conclude the hearing then. I want to thank you all
19 for taking the time to join us tonight, and for those
20 who provided their verbal comment, again, if you wish
21 to submit your public comment in writing, please
22 follow the instructions that were given during my
23 introductory remarks and is also available on the
24 screen.

1 The hearing record will remain open
2 through Thursday, October 12, 2023. I want to thank
3 you all for attending the virtual hearing, and the
4 hearing is now concluded at 6:33 p.m.

5 (Whereupon, the meeting concluded at
6 6:33 p.m.)

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CERTIFICATE OF DEPOSITION OFFICER

I, HEIDI SCHOENTUBE, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

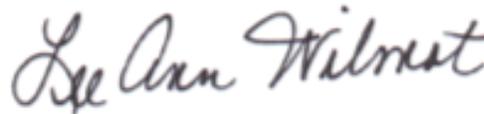


HEIDI SCHOENTUBE
Notary Public in and for the
State of Delaware

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LEE ANN WILMOT

0	2017 13:19	45 19:8	accurate 29:9
0014 1:4 6:2	14:8	48 18:12	30:5
1	2019 13:21	5	accurately
1 10:14 11:7,13	26:6	5 3:3 11:9	17:17
13:4	2020 10:20	50,000 26:23	achieves 18:11
1-12 3:12	2021 10:21	5b 18:6	acknowledged
10 3:5 12:5	2022 1:4 6:2	6	6:19 8:15
10-12 3:13	10:21,21 13:23	6 11:14	acre 17:2,13,14
11 12:11	2022-02 11:2	6090457 1:19	17:17
12 3:3 9:9	11:10	6:03 1:8 5:22	acres 17:6 24:1
10:21 12:15	2023 1:7 5:21	6:33 28:4,6	act 9:4
13:4 24:21,21	9:9 10:22 11:7	7	action 8:5 11:2
28:2	11:13,16,23	7 1:1 6:2 10:12	11:6,10 13:23
12th 9:20 22:14	12:3,8,14 28:2	10:20 11:11,17	29:12,16 30:8
13 3:6 11:16	21 3:3	11:21,23 12:1	30:12
13.2 16:20	22 12:13	12:3,16	active 18:3,7
14 10:20	23 3:7	739-9000 1:13	27:3
15 7:22 9:5	23.5 20:5	8	actively 24:5,10
16.4 18:20,22	25 3:3,8 12:8	8 11:20	activities 20:8
16.5 18:22	25608 29:16	89 1:11	20:12
160 26:11	26711 30:14	9	acts 10:1
17.1 19:4	27 1:7 3:3 5:21	9 10:21 11:24	actually 23:13
19 20:1	26:7	a	added 14:4
19901 1:12	3	abbreviated	26:10
1998 26:5	3 11:1	15:15 17:11	addition 7:4
1st 12:8 19:9	3.4 14:13	ability 4:13	15:17,24 16:10
2	302 1:13	29:10 30:7	16:15 17:11,22
2 10:19	36 18:9	able 5:9 22:11	18:13 19:12,24
20 10:21 18:6	3801 1:1 6:3	24:8,20 25:14	20:7
20.3.1 19:22	10:12 11:12,22	accommodated	additional 7:7
2013 13:10	12:2,17	7:21	8:17 12:5
26:10	4	accordance	15:14
2014 13:16	4 3:3,4 11:4	17:9	additions 18:4
			address 9:12

<p>addressed 26:8 addresses 25:5 adequate 24:16 24:19 adhere 21:14 adjusted 14:11 admin 1:1 2:12 2:13 4:5 6:3 administrative 4:9 7:9 9:3 10:12 11:11 12:2,17 14:1 adopted 13:11 ads 9:6 advance 6:18 advised 7:13 affect 14:1 affidavit 17:18 agency 22:20 ago 23:13 ahead 27:17 alan 2:6 21:21 22:24 27:14,14 algae 26:3 alignment 6:21 allow 13:14 26:3 allowed 13:11 alteration 16:3 amendment 11:11 amendments 10:12,17,24 11:3,21 12:1,6 12:16,21 13:24</p>	<p>21:1 amount 21:24 analysis 11:5 ann 30:2,15 anya 2:14 appealing 19:24 appear 20:23 22:1 appeared 11:15 appears 11:18 12:12 application 14:17 15:1 appointed 5:17 approved 11:1 13:16 15:15 17:11 aquaculture 1:2 2:9 3:12 6:3 10:13,15 10:18,24 11:12 11:22 12:3,7,9 12:18,20,22 13:10,11,14 14:1,4,9 15:12 16:10,14 17:20 18:4 19:3,4,11 19:17 20:3,9 20:10 21:1 26:1 area 19:21 areas 24:12 army 13:18 14:12 15:3</p>	<p>asked 26:5,18 assawoman 13:12 14:7 16:22 17:8 assigned 18:15 assist 4:11 21:23 association 2:8 2:10 23:10 26:1,5 attached 16:3 attend 2:6 attendee 2:14 2:15,16,17,18 2:19,20,21,22 2:23 attendees 2:2 attending 7:5 28:3 attention 21:5 attorney 29:14 30:10 audio 22:3,5,8 29:8 30:3 august 26:10 authentic 7:24 authority 13:13 authorization 20:13 automated 17:22 automatically 5:11 22:6 ava 2:15</p>	<p>available 27:23 aware 4:12</p> <p style="text-align: center;">b</p> <p>b 3:10 back 5:13 22:6 25:16 27:5,9 27:13 base 26:3 bay 16:12,18 16:22 17:8 bays 13:10,12 17:6 18:18 27:10 beach 2:22 bear 9:20 began 13:19,21 beginning 26:6 believe 4:2 benefits 25:6 best 29:10 30:6 big 24:19 bill 26:10 bit 25:1 bivalve 16:16 20:6 bivalves 26:3 board 27:6 boats 24:22 bob 23:8 bottom 4:16 5:2,4,7 15:17 15:19,20 26:4 boundaries 20:10</p>
--	---	---	--

boundary 19:13 braswell 2:18 brief 4:6 bring 4:21 build 8:3 building 1:10 buoy 24:18 buoys 15:21 17:7,10 bushels 18:13 business 27:7 busy 5:20 button 4:17,18 4:20 5:2	casey's 24:13 cc 5:3 cdr 2:11 cer 2:11 cersl 2:23 certificate 29:1 30:1 certify 29:4 30:2 change 14:8,23 15:1,9,20 16:20,24 18:1 18:12 19:12,22 20:4 changed 14:7 15:2 19:4 changes 13:22 14:17 15:6,10 15:13 17:3,5 18:7,10 19:19 19:20 20:15,16 20:20 23:15 changing 19:21 chapter 18:6 chat 8:13 chen 2:14 choose 17:14 chris 2:16 circle 27:13 clam 16:22 19:6 clams 20:6 clarification 15:10	clarify 18:8,10 clark 2:4 3:5 10:6,9 clause 23:23 clean 16:6 cleaned 16:7 cleaning 16:4 click 4:20 closed 4:7,13 4:15 coast 2:7 23:9 24:17 code 1:1 6:3 10:12 11:11,22 12:2,17 13:10 13:13 14:1,8 16:23 17:9 comes 5:7 coming 24:20 comment 6:20 6:21 7:14,20 8:18 9:5,8,9,17 10:4 21:6,9,16 22:3,12,14,17 22:22 23:1 25:15,20 26:22 27:20,21 commenting 21:12 commentor 22:7,15,17 commentors 21:14,21,23	comments 7:16 8:6,15,24 9:9 9:14 21:16,18 22:8 23:12,14 25:2,12 compilation 10:14 completed 22:13 computer 4:16 concerning 7:7 concise 21:17 conclude 25:17 27:18 concluded 21:4 28:4,5 concludes 6:17 conclusion 6:13 7:10 8:16 conduct 6:1 20:11 conducted 6:5 10:15 confirm 18:5 18:13 confirmed 22:4 conform 14:14 connect 5:20 connected 4:3 connecticut 24:1 cons 25:5 consideration 7:20 10:5
c			
c 2:1 3:1 4:1 cages 17:23 calendar 11:15 18:9,11 call 22:23 27:13 called 21:21 22:18 captioning 4:7 4:13,15 captions 4:17 4:18,20 5:2,11 5:12,13 captures 15:14 caret 4:20 casey 2:9 3:8 21:23 25:19,21 25:23,24 27:11 27:12			

<p>considered 9:21 consisting 8:5 contact 27:10 containers 17:24 containing 8:10 contest 19:23 continuously 26:18 contracts 14:15 control 6:1 coordinates 14:7 copy 11:1,4,9 12:15 corner 5:10 17:5,10,12,17 24:15 corps 13:19 14:13 15:3 corresponding 11:6 corridors 20:7 cost 27:7 council 10:20 10:23 counsel 29:11 29:14 30:7,10 count 22:1 court 2:11 6:22 8:1 22:9 covered 18:21 create 26:12,13</p>	<p>created 26:17 credited 18:16 culture 2:10 16:16,21 26:2 current 15:19 16:15 currently 18:20</p> <p style="text-align: center;">d</p> <p>d 4:1 daniel 2:17 date 5:20 davis 2:6 21:22 22:24 23:3,5 27:14,14 day 21:10 days 7:22 9:6 19:8 de 1:1,12 6:2 debated 24:16 december 26:6 decision 8:10 8:20,21 9:22 9:23 19:23,24 decrease 26:19 dedicated 7:3,6 defensively 24:12 definitions 14:3 14:3,6 delaware 2:9 2:10 10:12 11:7,11,13,15 11:22 12:2,4 12:17 14:8 17:9 18:6</p>	<p>20:13 25:24 26:2 29:19 delaware.gov 9:11 delaware.s 5:23 demonstrated 26:22 department 5:24 6:10,15 8:21 9:4,7,20 10:2 14:15 18:23 19:8 21:4 22:13 department's 13:4 19:23 21:13,15 department.s 8:4 10:8 deposition 29:1 description 3:11 designed 15:18 17:23 desired 10:5 details 7:7 develop 13:14 development 10:17,23 diameter 15:22 digital 29:8 30:3 director 2:7 16:19 23:9 discretion 18:23</p>	<p>discussing 13:17 discussions 10:22 distance 24:21 24:24 division 2:4 10:7,10 12:12 15:16 16:19 17:10 dnrec 1:10 7:1 7:14 8:12,23 9:12,14,24 10:15,23 12:12 13:13,18 14:23 20:17 21:10 26:11,15 27:1 dnrec's 14:18 14:22 21:8 dnrec.s 4:5 6:21 7:9 11:18 dnrehearing... 9:11 docket 1:4 6:1 documents 3:13 dots 4:19 5:5 dover 1:12 downweller 15:7 drawing 27:6 due 19:5,8,9 duly 29:5</p>
--	--	---	--

<p>e</p> <p>e 2:1,1 3:1,10 4:1,1 east 2:7 23:9 easter 16:17 ecological 25:6 economic 23:17 ecsga.org 25:4 effort 27:2 either 9:18 electric 16:4,5 electronic 9:18 electronically 6:11 eliminate 26:19 email 9:10 12:7 employed 29:11,14 30:8 30:11 employee 29:13 30:10 enable 10:1 enabled 8:24 encourage 7:4 encourages 22:13 enforcement 24:8 enforcing 23:24 engineers 13:19 ensure 7:19 8:23 26:16</p>	<p>entered 27:5 entirely 18:19 environmental 2:5 5:24 epw 2:19 equally 9:21 equipment 15:16 erect 20:9 es 29:4 established 21:13 establishes 17:16 evening 4:2,8 5:22 25:23 event 6:12 eventually 8:7 everybody 4:8 exact 9:21 except 20:1 excepting 17:21 exchanging 19:20 executive 2:7 23:9 exemption 18:24 exhibit 10:14 10:19 11:1,4,9 11:14,17,20,24 12:5,11,15 exhibits 3:12 8:6 10:11 13:1</p>	<p>13:3,4,4 existing 13:15 experienced 27:4 expiration 19:18</p> <p>f</p> <p>f 1:4 6:2 facebook 9:16 12:13 far 24:15 farmers 26:16 26:16,21 27:3 27:7 farms 26:11 fashion 26:8 february 19:9 feed 22:7 feedback 13:20 final 9:22 18:16 20:4 finally 12:15 financially 29:15 30:11 find 4:19 26:19 finish 22:11 first 5:18 6:4 16:18 18:15 21:21 22:19,23 23:2,14 fish 2:4 10:7,10 12:12 15:16 16:19 17:10 five 20:15</p>	<p>fix 20:8 flexibility 11:5 follow 27:22 following 7:13 7:22 8:9 10:11 14:2 19:9 forbidding 25:3 foregoing 29:3 29:4 30:4 foremost 5:19 6:4 form 9:10 formal 5:18 8:1 10:1 26:7 formatting 17:3 forth 21:7 fosnacht 2:17 found 7:8 four 15:18,19 fraction 26:22 fully 16:7 further 29:13 30:9</p> <p>g</p> <p>g 4:1 gardening 14:5 20:12 garvin 5:16 8:8 9:24 garvin.s 10:5 gathered 6:8 gear 5:6 14:5 15:12,17,21</p>
---	--	---	---

16:4,6,7 17:1 17:12,14 20:9 24:7 generate 6:8 generated 6:16 7:18 9:1 getting 13:20 give 12:21 26:11 given 27:22 go 4:3,6 24:9 25:11,16 27:5 27:17 going 4:5 24:14 good 4:2,8 25:23 grant 18:23 granted 22:15 grasses 26:4 great 25:23 growers 2:8 23:10 growing 17:16 guys 23:13	25:3,5 harvesting 17:19 18:17 hb 26:11 hear 23:10 25:21 hearing 2:3 4:4 4:11 5:14,17 6:1,4,14,18,24 7:2,5,8,11,16 7:17 8:3,6,7,12 8:14 9:6,10,13 10:1,9 11:15 11:18 12:6,12 12:16 21:7,8,9 21:11,19 22:10 23:4 25:14 27:18 28:1,3,4 hearing.s 7:6 hearings 7:14 11:18 heidi 1:18 2:11 29:2,17 help 27:9 hense 2:5 3:6 10:7 12:20 13:8 21:3 hereto 29:15 30:11 highly 24:18 highway 1:11 hold 15:18,19 honestly 24:8 24:17	hydraulic 16:4 16:5 i i.d 4:11 i.ll 5:13 i.m 4:4,9 icon 5:6 identified 16:1 26:12 identifier 15:15 17:11 identify 27:15 identity 22:4 ignored 23:14 illustrative 25:7 impact 11:5 import 16:13 important 8:19 importation 16:9 inch 17:7 24:16 24:21,21 inches 15:18,20 15:21,22,22,22 include 15:6 included 20:17 including 20:21 21:16 inclusion 9:1 incorporated 7:18 22:9 independently 6:6	indian 13:12 16:17,18 17:6 indicated 5:3 9:12 individual 18:13 industry 26:14 26:15,20 information 18:20 initiated 13:22 inland 13:10 16:12 18:17 27:10 inspections 24:9 instructions 4:6 8:17 27:22 interested 10:16 12:9 29:15 30:12 introduce 23:2 introduced 13:2 introductory 6:13 27:23 invalid 14:12 invest 26:23 issuance 14:10 issue 8:9 issued 9:14 14:13 15:4
h			
h 3:10 26:10 habitats 26:4 hand 4:5 10:6 27:15,17 hard 16:22 20:5 harvest 17:21 18:10,16,24 19:6 20:5 23:21 24:4			

j	language 4:22 4:23 5:3,8,9 15:2 16:3	legislators 26:10	maintain 17:15
jackson 2:12 3:4 4:6,8,9 5:15	languages 4:14 4:24	lessee 15:13 17:17 18:15,17	maintained 17:12
january 10:20 10:20,21,21	large 26:15,16 27:4	lessees 10:16 12:9 13:20 15:14	make 4:11 25:2
job 1:19	lastly 9:23	life 16:2	making 9:22 21:16
jobs 26:23	laugh 26:21	light 9:3 26:3	manager 2:22
john 2:4 3:5 10:6 12:24 13:3	law 7:9	limit 21:18	mark 2:9 3:8 13:1,3 21:23 24:13 25:19,24 27:10
join 27:19	lawful 20:10	limited 7:15	marked 17:3,7 17:9
joined 6:11 23:3	leader 12:20	limiting 21:18	markers 17:12 24:15
jordan 2:20	lease 14:4,5,10 14:11,12,16 15:1,3,8,15 16:2,11,24 17:2,11,20 18:4,9,11 19:11,14,15,18 19:21,23 20:2 20:3,6,11 24:3 24:4,5,10,11,11 24:12 25:1	linda 2:18	marking 15:21 16:24 17:5 25:1
journal 11:23	leased 17:13 24:2	link 9:10	markings 17:15 17:18
july 10:21	leaseholder 15:13 17:13,16 19:22	linnea 2:19	matching 14:24
justification 23:18,18	leases 14:14 17:8 18:5,14 19:3 24:9	list 2:2 6:8	matter 6:16,20 7:3,6,15,17,19 7:21 8:10,22 9:2,14,23,24 10:2 21:19 27:7
k	legal 9:6 11:21 12:1	listed 4:23,24 5:4 7:10	measured 18:8 18:11
k		listen 27:3	mechanical 17:21 25:3,5
kings 1:11		little 13:12 14:7 16:22 17:8	
know 10:3 24:13		located 5:7	
knowledge 29:10 30:6		locations 6:7	
l		long 9:19 24:21 27:8	
l 2:3		look 25:7	
label 15:16		losses 27:4	
land 14:5,10,16 14:23 17:20 18:4 19:3,11 19:18 20:3,11 26:13		low 24:23	
		lower 17:23 27:6	
		m	
		made 8:20,21 9:24 17:22 18:5 20:15 26:7	

mechanism 10:1	mute 22:6	noticing 12:5	once 4:19 5:6 6:16
	n	number 6:2 11:2,10 17:3 19:19	one.s 6:5 online 7:8 9:7 open 7:22 9:8 28:1
mechanisms 9:18	n 2:1 3:1,1 4:1	numbers 17:4 19:21 20:22	operations 16:1
media 9:15	nally 2:20	nursery 15:5,6 15:8 16:12 19:4	opportunity 6:19 21:6 25:13
meet 18:7	name 4:9 5:16 14:20,23 15:10 17:24 20:19 22:19,20 23:8	nutrients 26:13	options 4:21
meeting 5:5 10:19 28:5	name's 25:24	o	order 7:19 8:9 21:12
meetings 10:22	natural 5:24	o 3:1 4:1	organic 26:20
mentioned 25:11	navigation 20:7	objection 23:16	organization 22:21
mentions 14:18	need 5:12 15:8 16:12 18:6 24:20	objective 24:3	outcome 29:16 30:12
messaging 9:16	needed 13:18	obtaining 16:18	outreach 10:15 13:21
minimum 7:22 9:5,5 18:8,10 18:12 23:21 24:4 26:17	neither 29:11 30:7	obviously 25:8	outside 18:17 20:9
minor 14:17 15:9,13 19:19 20:15,19,23	new 20:7 26:9	october 9:8,20 22:14 28:2	overkill 24:22
minute 21:17 22:12	newman 1:6 2:3	offer 7:20 8:15 8:24 21:6,8 23:16	own 6:7
minutes 10:19 22:2,5,15,18	news 11:23 12:4	offered 23:12	ownership 19:16
moderated 1:6	nivette 2:21	offering 8:18 21:15	oyster 16:17 19:6 26:14,20
modify 26:7	non 14:16	office 2:12,13 4:10	oysters 15:18 15:19 18:13 27:9
moments 27:17	noon 21:10	officer 2:3 4:11 5:14,17 10:9 23:4 29:1,2	p
monthly 19:5	notary 29:18	officer.s 8:7	p 2:1,1 4:1
months 16:2 18:9,12	note 8:20 22:7	official 8:2	p.m. 1:8 5:22 28:4,6
move 23:6 25:18	noted 9:19 15:11 19:21	okay 12:22 23:6	
moved 18:14	notice 11:2,10 11:10,14,17,21 12:1,11		
multiple 4:14	noticed 9:6		
	notices 9:13		

<p>page 3:2,11 5:7 9:10,13 12:13</p> <p>part 26:21</p> <p>partially 16:8</p> <p>participating 6:6</p> <p>parties 10:16 12:10 29:12,14 30:8,11</p> <p>party 19:15</p> <p>passed 26:10</p> <p>past 27:17</p> <p>path 26:20</p> <p>pay 26:24</p> <p>people 24:12</p> <p>perez 2:21,21</p> <p>period 9:5,8 22:12</p> <p>permanent 14:5</p> <p>permission 16:19</p> <p>permit 13:17 14:13 15:3,8 16:13</p> <p>permits 14:14 15:5</p> <p>permitted 8:13 16:12</p> <p>perry 2:13</p> <p>person 22:24</p> <p>persons 6:17</p> <p>pertaining 11:2 23:15</p>	<p>pertinent 7:16</p> <p>phone 5:1</p> <p>physical 9:12</p> <p>physically 6:8</p> <p>pipes 24:24</p> <p>placards 17:8,9</p> <p>place 7:14</p> <p>placed 17:2 22:6</p> <p>plan 16:1</p> <p>planting 16:13 18:8,12,15,16 18:24 19:6 23:21 26:17,19</p> <p>platform 4:12 5:23</p> <p>platforms 9:15</p> <p>please 7:13 9:17 22:6,18 22:24 23:2 25:19 27:10,15 27:21</p> <p>pointing 4:20</p> <p>pole 17:7</p> <p>poles 17:7 24:16</p> <p>popping 5:12</p> <p>population 26:23</p> <p>portion 8:16 16:6 19:15</p> <p>portions 20:21</p> <p>possible 13:22 21:17</p>	<p>post 24:19</p> <p>postal 9:11</p> <p>posted 7:2 11:16 12:13</p> <p>power 16:4,5,7</p> <p>practical 23:18</p> <p>practice 14:11</p> <p>pre 6:17 8:14 21:5,10,13,20</p> <p>preferred 4:22 4:23 5:3,9</p> <p>prepare 6:23</p> <p>prepared 7:1 30:3</p> <p>prerequisites 14:10</p> <p>present 6:9,23</p> <p>presentation 6:15,17 7:12 8:16 10:8 12:16,21 13:7 21:4</p> <p>presented 12:18</p> <p>president 2:9 2:10 25:24 26:1</p> <p>prevent 24:12</p> <p>previous 18:22</p> <p>previously 8:23 9:13 15:11</p> <p>prior 9:22 16:13 19:9 29:5</p>	<p>probably 24:19 24:22</p> <p>procedures 9:4</p> <p>proceeding 5:18 6:10 7:23 8:1,17 24:23 30:4</p> <p>proceedings 29:3,5,6,9 30:6</p> <p>process 8:10 13:17 21:14 26:9 27:5</p> <p>procured 16:11</p> <p>produce 16:16 16:21</p> <p>production 27:8</p> <p>productively 24:2</p> <p>program 14:20 15:10 18:2 20:14,18 24:3</p> <p>programs 14:19 18:2 20:18</p> <p>prohibited 20:8</p> <p>prohibition 23:17,19</p> <p>project 12:20</p> <p>promulgate 13:13</p> <p>proof 11:20,24</p> <p>proposed 1:1 6:2,20 7:7 8:4 8:22 10:11,17</p>
--	--	---	---

<p>10:23 11:3,6 11:11,21 12:1 12:6,16 13:24 17:1 18:22 23:13 proposing 23:15 pros 25:5 protocol 21:7 protocols 6:21 7:13 8:12 21:15 provide 5:22 6:15,19 9:5 10:8 22:20 provided 6:19 8:19 20:1 27:20 public 2:14,15 2:16,17,18,19 2:20,21,22,23 7:14 9:7,13 10:3,3 11:14 11:17,18 12:11 13:21 21:8 27:21 29:18 publication 11:20,24 published 11:6 11:12 12:3 purchase 24:6 24:7 purpose 8:3 pursuant 6:24</p>	<p>putting 24:18 pvc 17:7 24:16</p> <p style="text-align: center;">q</p> <p>qualified 29:7 qualifiers 18:21 quick 13:9 quit 26:23 quite 23:19 24:7,24 25:1,7</p> <p style="text-align: center;">r</p> <p>r 1:4 2:1 4:1 6:2 raceway 15:7 raise 17:23 27:15 raised 27:16 ramp 27:8 rather 15:19 16:6 19:5 20:6 rational 23:22 read 13:3 ready 4:3 really 13:9 reason 22:16 reasons 8:11 receipt 19:8 receipts 24:7,7 receive 26:21 received 7:3,15 9:17,19 10:4 13:2 recently 14:21 20:19</p>	<p>recognize 27:1 record 6:10,16 7:18,21,24 8:4 8:5 9:1 13:2 22:10,19 28:1 29:9 30:5 recorded 29:6 recording 29:8 30:4 recreational 14:19,20 18:1 20:13,18 redo 27:6 reduced 29:7 reflect 14:8,11 reflective 24:18 reformatting 20:20,22 reg 16:15 regard 8:4,18 8:22 21:15,23 regarding 4:7 9:23 11:21 12:1,6 23:20 regards 23:20 register 11:7,9 11:13 registered 6:18 8:14 21:6,10 21:20 registrar 20:20 registration 21:14 regulation 10:18,24 12:7</p>	<p>13:21,22 20:16 20:23 21:2 26:8,12 regulations 3:13 7:8 11:8 11:13 12:22 13:14,16 20:21 23:20 27:6 regulatory 6:20 8:22 10:2 11:4 11:5 13:23 27:2 rehaboth 13:12 16:17 17:6 related 29:11 30:7 relative 29:13 30:10 relief 26:5 remain 7:13,21 16:2 17:4 28:1 remains 14:12 remarks 6:14 27:23 remember 9:17 remind 25:15 removal 18:19 18:21 remove 26:3,13 removed 14:13 rent 20:2 renumbering 20:21 replace 17:17</p>
--	---	--	--

<p>report 8:7 reported 1:18 reporter 2:11 6:22 22:9 reporter.s 8:2 reporting 19:2 reports 19:5 representing 22:20 request 26:7 27:1 required 9:4 15:9 19:14 requirement 6:24 15:20 requirements 17:5 18:7 19:1 19:2 23:21 24:11 26:6,9 26:19 resources 5:24 respecting 21:17 respective 6:7 responsibility 26:11 restore 26:4 result 21:13 retains 19:15 review 8:9 reviewed 8:8 revisions 1:1 6:2 rewording 20:23</p>	<p>rheault 2:7 3:7 21:22 23:7,8,8 23:12 25:10 right 5:10 risks 25:6 river 13:12 16:17,18 17:6 robert 2:7 3:7 21:22 23:7 room 6:6 rotate 17:23 rules 23:13</p> <hr/> <p style="text-align: center;">s</p> <hr/> <p>s 2:1 3:1,10 4:1 saby 2:19 sada 14:7,10,16 15:1 sale 18:24 19:19 satisfactory 25:1 saying 19:7 24:14 says 5:5 schedules 5:20 schoentube 1:18 2:11 29:2 29:17 scientific 18:5 scientist 2:5 screen 4:16 5:2 22:1 27:24 seafood 2:10 26:2</p>	<p>second 21:22 secretary 2:12 2:13 4:10 5:16 8:8,8 9:22,24 10:4 secretary.s 7:20 section 7:9 14:6 14:18,23,24 15:2,6,10 16:24 18:6 20:1,4 25:4 sections 14:2 20:16 26:7 see 4:17,17 23:5 24:8,21 24:23 seed 24:6 select 4:18,22 4:23 5:2,4,5,8,9 5:9,12,13 sell 20:2 selling 18:17 semi 14:5 semipermanent 16:1 sent 12:7 19:7 separate 15:8 september 1:7 5:21 11:7,13 11:16,23 12:3 12:8,8,13 serve 5:17 services 9:12</p>	<p>session 8:13 set 20:8 21:7 settings 5:6,7 several 26:9 shellfish 1:2 2:8 3:12 6:3 10:13,15,18,24 11:12,22 12:2 12:7,9,17,20,22 13:9,11,14 14:1,4,5,9,14 14:18,20 15:5 15:12 16:3,9 16:10,11,12,14 16:16,21 17:1 17:13,14,16,19 17:24 18:1,3 18:14 19:2,3,5 19:11,17 20:3 20:6,9,10,12,13 20:17 21:1 23:9 shellfisheries 10:20 ships 24:20 show 4:17,18 4:19 5:13 showing 24:5 sign 17:18 signature 29:16 30:14 signed 13:11 14:12,15 similarly 14:22</p>
--	--	---	---

simple 26:24 singular 14:21 18:2 site 19:21 sites 18:4 20:6 six 16:2 17:7 24:15 skewer 24:14 skills 29:10 30:6 slaughter 2:22 small 20:21 26:20,22 27:8 smart 5:1 smith 1:6 2:3 3:3 4:2 5:14,15 5:16 10:10 12:23 21:3 23:5,6,11 25:10,22 27:12 social 9:15 solely 7:15 soon 7:3 sorry 12:24 speak 8:15 22:16 speaker 22:11 23:4,7 25:19 speaker's 22:2 22:3,5 specialist 4:10 species 16:14 16:16 specifically 19:6	specified 16:23 staff 6:15 standard 6:21 8:12 start 4:15 11:2 11:10 13:9 started 4:4 13:17,20 state 5:23 12:4 15:2 16:5 17:6 17:22 18:22 19:5,13 20:5 22:19 29:19 stated 8:23 9:7 statement 11:5 states 23:19,23 24:6,17 statewide 11:15 statutory 6:24 8:3 stock 14:6 strip 24:18 strong 23:16 strongly 23:22 24:10 structures 15:6 15:24 19:4 subaqueous 14:4,9,16,23 17:20 18:4 19:3,17 20:11 26:13 subject 7:15,17 21:18	sublease 20:2 23:16 submerged 16:6,8 submit 22:13 25:14 27:21 submitted 9:9 9:15 10:11 suggested 15:1 18:19 19:20 20:20 21:1 summarized 10:22 summary 20:24 support 15:24 23:23 24:3,10 sure 4:12 surface 15:23 surrender 19:18 survey 19:7,8 19:13 surveyed 17:2 sworn 29:5 systems 17:22 t t 3:1,1,10 taken 29:3,12 30:9 takes 27:8 talk 25:8 tanisha 2:13 tape 24:18 ten 27:1	tenure 19:20 term 19:20 terminate 19:23 termination 19:18 testifying 29:5 text 9:16 thank 5:15,19 10:9 13:5,8 21:3 23:2 25:8 25:10 27:10,12 27:18 28:2 therefor 8:11 theresa 1:6 2:3 3:3 5:14,16 thing 23:14 think 23:17,21 25:6 26:17 third 21:22 thoroughly 10:2 thousands 24:1 three 4:19 5:4 15:21,21,22,22 21:17,20 22:2 22:5,12,15,18 thrive 13:15 thursday 9:8 28:2 time 5:19,21 8:19 21:17,24 22:12,16 25:2 25:8,11 26:21 27:13,19
--	---	--	--

timeline 13:9 timer 22:1,4 today 5:20 together 6:5 tonight 4:11 6:8 8:1,6,18,21 10:1 21:12 23:3 27:19 tonight's 21:7 tonight.s 5:18 7:10,16,22 8:3 8:17 12:6 top 5:10 town 2:22 transcribed 22:8 transcriber 30:1 transcript 6:23 7:2 8:2,5 30:3 30:5 transcriptionist 29:8 transfer 19:13 20:1 transferred 18:14 19:14 transferring 19:15 transfers 19:12 translates 26:15 translation 4:21 5:8	triangle 24:22 true 29:9 30:5 turn 5:13 12:19 17:23 21:5 22:2 turning 6:14 twitter 9:16 two 20:7 typewriting 29:7	usps 9:18 utilize 26:12	ways 10:4 23:22 we.re 4:12 webpage 7:2,6 7:8,9 21:8 website 11:19 25:4 wednesday 1:7 5:21 weight 9:21 welcome 27:7 wetlands 13:18 14:22,24 wild 14:6 20:5 wildlife 2:4 10:7,10 12:13 15:16 16:20 17:10 wilmington 11:23 wilmot 30:2,15 winches 17:21 wish 27:20 wishes 7:19 8:23 wishing 21:8 witness 29:4 word 15:9 wording 14:17 15:13,14 18:7 18:9 19:19 work 26:24 worked 26:18 working 26:2 27:2	
	u	v		
	ultimate 9:23 ultimately 8:9 under 7:9 16:9 17:19 18:3 understand 27:5 unidentified 23:4 unlawful 16:15 16:21 17:20 20:2,5,8,11 unmuted 22:3 23:1 25:20 update 20:17 upweller 15:7 use 15:15 17:10 18:3,7 23:23 23:23 24:6,11 used 16:6 17:24 24:5,10 26:2 uses 13:15 using 4:13,16 9:15 14:19 20:19	valid 15:3,8 various 10:3 velocity 24:23 verbal 6:20 8:15,18 21:6,9 21:16 27:20 verbatim 6:23 8:2 vet 10:2 video 22:7 virginia 2:12 3:4 4:5,9 24:1 virtual 4:4 5:23 6:1 7:17 21:9 28:3 virtually 6:5,9 6:22 visible 15:23 visit 7:5 visual 21:24	w	
		want 5:18 25:15 27:18 28:2 water 13:16 14:19,20 15:23 18:1 20:14,18 waterways 14:24 way 20:22 27:9		

works 23:19 writing 22:14 25:15 27:21 written 8:6 9:14 16:18 18:23 20:12 27:2
x
x 3:10
y
year 18:9,11 19:10 27:1 yearly 19:7 years 23:13 26:24 yielding 22:17 you.ll 5:8 you.re 4:15 5:1 youtube 9:16
z
zina 2:5 3:6 10:7 12:20,22 12:23,24 13:6 zoom 4:12 6:8